

THE NATIONAL ARCHIVES  
LITTERA SCRIPTA MANET  
OF THE UNITED STATES

# FEDERAL REGISTER

VOLUME I 1934 NUMBER 52

Washington, Tuesday, May 26, 1936

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

CACHE NATIONAL FOREST

Utah

By virtue of and pursuant to the authority vested in me by section 24 of the act of March 3, 1891, ch. 561, 26 Stat. 1095, 1103, as amended (U. S. C., title 16, sec. 471), and the act of June 4, 1897, ch. 2, 30 Stat. 11, 36 (U. S. C. title 16, sec. 473), and upon the recommendation of the Secretary of Agriculture, it is ordered that the following-described lands in the State of Utah be, and they are hereby, included in and made a part of the Cache National Forest:

SALT LAKE MERIDIAN

T. 5 N., R. 1 E., secs. 2 to 8, inclusive;  
T. 6 N., R. 1 E., secs. 4 to 9, inclusive, W $\frac{1}{2}$  sec. 10, secs. 15 to 23, inclusive, S $\frac{1}{2}$  sec. 25, secs. 26 to 36, inclusive  
T. 7 N., R. 1 E., secs. 12 and 14, W $\frac{1}{2}$  Sec. 18, sec. 24 NW $\frac{1}{4}$ , S $\frac{1}{2}$  sec. 30, secs. 31 and 32, W $\frac{1}{2}$  sec. 33;  
T. 8 N., R. 1 E., secs. 4, 8, 18, and 20;  
T. 9 N., R. 1 E., sec. 30;  
T. 10 N., R. 1 E., sec. 12;  
T. 6 N., R. 2 E., sec. 12, S $\frac{1}{2}$  sec. 14;  
T. 7 N., R. 2 E., secs. 10, 12, 14, 18, 20, 22, 26, 28, 30, 34;  
T. 10 N., R. 2 E., sec. 1, S $\frac{1}{2}$  S $\frac{1}{2}$  sec. 3, S $\frac{1}{2}$  sec. 8, secs. 10, 11, and 12;  
T. 6 N., R. 3 E., secs. 6, 26, 28, 30, and 34;  
T. 7 N., R. 3 E., secs. 1, 10, 22, 24 and 26;  
T. 9 N., R. 3 E., secs. 19, 20, 24, and 27;  
T. 10 N., R. 3 E., sec. 1, E $\frac{1}{2}$  S $\frac{1}{2}$  sec. 10, secs. 11, 14, 15, 17, 20, 21, 23, 25, 26, 29, and 35;  
T. 6 N., R. 4 E., secs. 4, 6, 8, 10, 14, 22, 26, 28, and 34;  
T. 7 N., R. 4 E., secs. 1, 5, 6, 8, 9, 11, 14, 18, and 28;  
T. 9 N., R. 4 E., sec. 1, S $\frac{1}{2}$  sec. 10, secs. 11 to 15, inclusive, S $\frac{1}{2}$  sec. 20, S $\frac{1}{2}$  sec. 21, secs. 22, 24, 25, 28, and 33;  
T. 10 N., R. 4 E., secs. 6, 9, 10, 17, 19, and 30;  
T. 11 N., R. 4 E., sec. 1, E $\frac{1}{2}$  sec. 9, secs. 12, 13, and 21;  
T. 6 N., R. 5 E., secs. 5, 12, 14, 18, 24, 26, and 30;  
T. 7 N., R. 5 E., secs. 4, 8, 10, 12, 14, 18, 22, 24, 28, and 30;  
T. 9 N., R. 5 E., sec. 6;  
T. 10 N., R. 5 E., secs. 3, 9, 10, E $\frac{1}{2}$  sec. 17, E $\frac{1}{2}$  sec. 20, secs. 21 and 28, E $\frac{1}{2}$  sec. 29, secs. 31 and 33;  
T. 11 N., R. 5 E., secs. 5 to 8, inclusive, secs. 15, 17, 18, 22, 23, 26, and 35;  
T. 6 N., R. 6 E., secs. 6, 8, 18, and 20;  
T. 7 N., R. 6 E., secs. 20, 22, 28, and 30;  
T. 5 N., R. 1 W., secs. 1, 2, 11, and 12;  
T. 6 N., R. 1 W., secs. 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36;  
T. 7 N., R. 1 W., secs. 1 to 11, inclusive, NW $\frac{1}{4}$ , S $\frac{1}{2}$  sec. 12; secs. 13 to 17, inclusive, N $\frac{1}{2}$  sec. 20, N $\frac{1}{2}$ , SE $\frac{1}{4}$  sec. 21, secs. 22 to 26, inclusive, secs. 35 and 36;  
T. 8 N., R. 1 W., all;  
T. 9 N., R. 1 W., all;  
T. 7 N., R. 2 W., secs. 1 and 12;  
T. 8 N., R. 2 W., secs. 1, 12, 13, 24, 25, and 36; aggregating 167, 464.95 acres.

The reservation made by this order shall as to all of the above-described lands which are at this date legally appropriated under the public-land laws or reserved for any public purposes other than classification, flood control, or water-

shed protection, be subject to, and shall not interfere with or defeat, legal rights under such appropriations, or prevent the use for such public purposes of lands so reserved, so long as such appropriations are legally maintained or such reservations remain in force; and this reservation supersedes all existing withdrawals and reservations of the above-described lands for purposes of classification, flood control, and watershed protection.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,  
May 22, 1936.

[No. 7378]

[Filed, May 23, 1936; 11:26 a. m.]

THE WHITE HOUSE,  
Washington, May 16, 1936

The Honorable HENRY MORGENTHAU, Jr.,  
Secretary of the Treasury.

MY DEAR MR. SECRETARY:

The Act to amend the Tariff Act of 1930, approved June 12, 1934, provides in part that the duties proclaimed under its authority shall be applied to articles the growth, produce, or manufacture of all foreign countries, whether imported directly or indirectly. The Act further provides that the President may suspend the application of the proclaimed duties to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts or policies which in his opinion tend to defeat the purposes set forth in the Act. Pursuant to these provisions of the Act, I hereby direct that the duties proclaimed on this date in connection with the trade agreements signed on April 24, 1936, with Guatemala and on May 6, 1936, with France, and all other duties heretofore proclaimed in connection with trade agreements concluded under the authority of the Act (with the exception of the duties proclaimed in connection with the trade agreement signed on August 24, 1934, with Cuba) shall be applied from the effective dates of such duties or, as the case may be, shall continue to be applied on and from the date of this letter, only to articles the growth, produce, or manufacture of the countries hereinafter designated and to such articles, in the case of each country, respectively, for the period indicated in the numbered section below in which such country is designated.

1. In respect of the products of each country designated in this section, the proclaimed duties shall be applied from the effective dates of such duties or, as the case may be, shall continue to be applied on and from the date of this letter until thirty days from the date on which you are notified by me that the United States has ceased, or on a day certain will cease, to be bound by provisions of a treaty





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or agreement providing for most-favored-nation treatment in respect of customs duties.

Denmark	Portugal and its colonies and possessions
Italy	

2. In respect of the products of each country designated in this section, the proclaimed duties shall be applied so long as such duties remain in effect and this direction is not modified in respect of such country.

Afghanistan	Andorra
Albania	Anglo-Egyptian Sudan

Arabian Shaikdoms not included under any other designation in this list	India
Argentina	Iran (Persia)
Australia, Commonwealth of, and its mandated territories	Iraq
Austria	Irish Free State
Belgium and its colony and mandated territories	Italian colonies and possessions
Bhutan	Japanese Empire and mandated territories and Kwantung Leased Territory
Bolivia	Latvia
Brazil	Liberia
Bulgaria	Lithuania
Canada	Luxemburg
Chile	Mexico
China	Monaco
Colombia	Morocco
Costa Rica	Nepal
Cuba (subject to the provisions of the trade agreement concluded with Cuba on August 24, 1934)	Netherlands and its colonies
Czechoslovakia	Newfoundland
Danzig, Free City of	New Hebrides
Dominican Republic	New Zealand and mandated territories
Ecuador	Nicaragua
Egypt	Norway
El Salvador	Oman (Muscat)
Estonia	Panama
Ethiopia (Abyssinia)	Paraguay
Finland	Peru
France (including Algeria) and its colonies, dependencies, protectorates, and mandated territories	Poland
Great Britain and Northern Ireland, and British colonies, dependencies, protectorates, and mandated territories	Rumania
Greece	San Marino
Greenland	Saudi Arabia
Guatemala	Siam
Haiti	Spain and its colonies and possessions
Honduras	Sweden
Hungary	Switzerland and Liechtenstein
Iceland	Turkey
	Union of South Africa and mandated territory
	Union of Soviet Socialist Republics
	Uruguay
	Vatican, City of the
	Venezuela
	Yemen
	Yugoslavia

Because I find as a fact that the treatment of American commerce by Germany is discriminatory, I direct that the proclaimed duties shall not be applied to products of Germany.

My letters addressed to you on February 1, 1936, on March 20, 1936, on April 20, 1936, and on May 7, 1936,<sup>1</sup> with reference to duties proclaimed in connection with trade agreements signed under the authority of the Act of June 12, 1934, are hereby superseded.

You will please cause this direction to be published in an early issue of the weekly *Treasury Decisions*.

Very sincerely yours,

FRANKLIN D ROOSEVELT

[Filed, May 25, 1936: 10:24 a. m.]

## DEPARTMENT OF THE INTERIOR.

### Division of Grazing.

## UTAH GRAZING DISTRICT No. 1

## MODIFICATION

MAY 13, 1936.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), departmental order of April 8, 1935, establishing Utah Grazing District No. 1, is hereby revoked

<sup>1</sup> 1 F. R. 51, 289, 457.



so far as it affects the following-described lands, such revocation to be effective upon the inclusion of the lands within the Cache National Forest.<sup>1</sup>

### Utah

#### SALT LAKE MERIDIAN

T. 5 N., R. 1 E., secs. 2 to 8, inclusive.  
 T. 6 N., R. 1 E., secs. 4 to 9, inclusive, W $\frac{1}{2}$  sec. 10, secs. 15 to 23, inclusive, S $\frac{1}{2}$  sec. 25, secs. 26 to 36, inclusive.  
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 T. 6 N., R. 2 E., sec. 12, S $\frac{1}{2}$  sec. 14.  
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 T. 9 N., R. 3 E., secs. 19, 20, 24, and 27.  
 T. 10 N., R. 3 E., sec. 1, E $\frac{1}{2}$  E $\frac{1}{2}$  sec. 10, secs. 11, 14, 15, 17, 20, 21, 23, 25, 26, 29, and 35.  
 T. 6 N., R. 4 E., secs. 4, 6, 8, 10, 14, 22, 26, 28, and 34.  
 T. 7 N., R. 4 E., secs. 1, 5, 6, 8, 9, 11, 14, 18, and 28.  
 T. 9 N., R. 4 E., sec. 1, S $\frac{1}{2}$  sec. 10, secs. 11 to 15, inclusive, S $\frac{1}{2}$  sec. 20, S $\frac{1}{2}$  sec. 21, secs. 22, 24, 25, 28, and 33.  
 T. 10 N., R. 4 E., secs. 8, 9, 10, 17, 19, and 30.  
 T. 11 N., R. 4 E., sec. 1, E $\frac{1}{2}$  sec. 9, secs. 12, 13, and 21.  
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 T. 7 N., R. 5 E., secs. 4, 8, 10, 12, 14, 18, 22, 24, 28, and 30.  
 T. 9 N., R. 5 E., sec. 6.  
 T. 10 N., R. 5 E., secs. 3, 9, 10, E $\frac{1}{2}$  sec. 17, E $\frac{1}{2}$  sec. 20, secs. 21 and 28, E $\frac{1}{2}$  sec. 29, secs. 31 and 33.  
 T. 11 N., R. 5 E., secs. 5 to 8, inclusive, secs. 15, 17, 18, 22, 23, 26, and 35.  
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 T. 5 N., R. 1 W., secs. 1, 2, 11, and 12.  
 T. 6 N., R. 1 W., secs. 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36.  
 T. 7 N., R. 1 W., secs. 1 to 11, inclusive, NW $\frac{1}{4}$  S $\frac{1}{2}$  sec. 12, secs. 13 to 17, inclusive, N $\frac{1}{2}$  sec. 20, N $\frac{1}{2}$  SE $\frac{1}{4}$  sec. 21, secs. 22 to 26, inclusive, secs. 35 and 36.  
 T. 8 N., R. 1 W., all.  
 T. 9 N., R. 1 W., all.  
 T. 7 N., R. 2 W., secs. 1 and 12.  
 T. 8 N., R. 2 W., secs. 1, 12, 13, 24, 25, and 36.  
 Aggregating 187,464.95 acres.

HAROLD L. ICKES,

Secretary of the Interior.

[Filed, May 23, 1936; 9:44 a. m.]

## DEPARTMENT OF AGRICULTURE.

### Agricultural Adjustment Administration.

#### PROCLAMATION MADE BY THE SECRETARY OF AGRICULTURE CONCERNING THE BASE PERIOD WITH RESPECT TO A MARKETING AGREEMENT AND ORDER REGULATING THE SHIPPING OF FRESH PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN THE STATE OF CALIFORNIA

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, the Secretary of Agriculture does hereby find and proclaim that, with respect to the making of a marketing agreement and the issuance of an order regulating the shipping of fresh pears, plums, and Elberta peaches, grown in the State of California, the purchasing power of such fresh pears, plums, and Elberta peaches during the base period, August 1909-July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of fresh pears, plums, and Elberta peaches can be satisfactorily determined from available statistics of the Department of Agriculture for the period 1920-1928, and the period 1920-1928 is hereby declared and proclaimed to be the base period to be used in connection with the making of a marketing agreement and the issuance of an order regulating the shipping of fresh pears, plums, and Elberta peaches grown in the State of California.

In witness whereof, the Secretary of Agriculture has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, D. C., this 23d day of May 1936.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[Filed, May 23, 1936; 3:36 p. m.]

#### ORDER REGULATING THE SHIPPING OF FRESH PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN THE STATE OF CALIFORNIA

Whereas it is provided in Section 8c of the Agricultural Adjustment Act, approved May 12, 1933, as amended (hereinafter called the act), as follows:

(1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof.

and

Whereas, the Secretary of Agriculture, having reason to believe that the issuance of an order would tend to effectuate the declared policy of the act to establish and maintain such marketing conditions for California fresh deciduous tree fruits (except apples) as would reestablish prices to farmers at a level that would give such commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of such commodities in the base period, did, pursuant to the provisions of the act and the regulations thereunder, on the 5th day of February 1936, give notice of a hearing to be held at Sacramento, California, on February 20, 1936, on a proposed order regulating the handling of fresh California deciduous tree fruits (except apples), and did upon said date and at said place conduct a public hearing thereon and did give due opportunity to all interested parties to be heard concerning said proposed order; and

Whereas, the Secretary of Agriculture has found and proclaimed that the purchasing power of fresh pears, plums, and Elberta peaches grown in the State of California during the base period, August 1909-July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture, but that the purchasing power of fresh pears, plums, and Elberta peaches can be satisfactorily determined from available statistics of the Department of Agriculture for the period 1920-28; and

Whereas, the Secretary of Agriculture has found and proclaimed the period 1920-28 to be the base period with respect to fresh pears, plums, and Elberta peaches for the purposes of this order; and

Whereas, the Secretary of Agriculture finds upon the evidence introduced at said hearing and the record thereof:

(1) That customarily large quantities of California fresh pears, plums, and Elberta peaches are shipped in the current of interstate and foreign commerce;

(2) That the average farm price for California fresh pears and Elberta peaches during the 1935 season was below the price which would give such commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of such commodities in the base period; and that the average farm price of California fresh plums during the 1935 season was, due in a large measure to the shortness of the crop, slightly above the price which would give such commodity a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of such commodity in the base period. However, the present bearing acreage of such plums will produce, with an average yield per acre, such quantity of said plums as is in excess of the quantity which, under probable demand conditions during the 1936 season, would return to producers thereof prices which would give such plums the purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of such fruit during the base period.

<sup>1</sup> See Executive Order No. 7378 in this issue.



(3) That the annual production of pears grown in the State of California was 218,000 tons in 1931; 238,000 tons in 1932; 221,000 tons in 1933; 233,000 tons in 1934; and 169,000 tons in 1935, as compared with an average annual production of pears grown in the said State for the five-year period, 1925-1929, inclusive, of 196,700 tons;

(4) That with yield per acre equal to the average yield per acre during the 15-year period ending 1934, the bearing acreage of pears in the State of California in 1935 would produce approximately 240,000 tons, equivalent to an increase of approximately 11 percent over average production of pears in the State of California during the five-year period ending 1935, and an increase of 42 percent over the production of pears in the State of California in 1935;

(5) That the annual production of plums grown in the State of California was 65,000 tons in 1931; 68,000 tons in 1932; 57,000 tons in 1933; 62,000 tons in 1934; and 48,000 tons in 1935, as compared with an average annual production of plums grown in said State for the five-year period, 1925-1929, inclusive, of 57,000 tons;

(6) That with yield per acre equal to the average yield per acre during the 15-year period ending 1934, the present bearing acreage of plums in the State of California would produce approximately 65,000 tons, equivalent to an increase of approximately 8 percent over average production of plums in the State of California during the five-year period ending 1935 and an increase of 35 percent over the production of plums in said State in 1935;

(7) That the annual production of freestone peaches grown in California was 182,000 tons in 1931; 207,000 tons in 1932; 179,000 tons in 1933; 171,000 tons in 1934; and 148,000 tons in 1935, as compared with an annual production of said peaches grown in the State of California for the five-year period, 1925-1929, inclusive, of 181,600 tons;

(8) That with yield per acre equal to the average yield per acre during the eight-year period ending 1934, the bearing acreage of freestone peaches in the State of California in 1934 would result in crops approximately equivalent to the annual production of said peaches for the five-year period ending 1935, or an increase of 21 percent over the production of said peaches in 1935;

(9) That (1) period regulation of shipments, (2) regulation of the daily movement of shipments, (3) prohibition of loadings, and (4) limitation of shipments by grades and sizes, subject to the terms and conditions contained in this order, will tend to prevent marked fluctuation in prices to growers and establish and maintain a more stabilized market, tending to restore prices to growers at a level that would give the commodities specified in this order a purchasing power with respect to articles that growers buy, equivalent to the purchasing power of such commodities in the base period;

(10) That the respective methods of prorating shipments among shippers as prescribed in this order and the methods of regulating shipments by grades and by sizes are fair and equitable;

(11) That all the remaining provisions of this order are necessary to effectuate the other provisions of this order; and

(12) That this order is limited in its application to the smallest regional production area that is practicable, and that the issuance of several orders applicable to any subdivisions of the regional area covered by this order would not effectively carry out the declared policy of Title I of the act with respect to establishing and maintaining such marketing conditions for fresh pears, plums, and Elberta peaches grown in the State of California, as will reestablish prices to growers at a level that will give such commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such commodities in the base period;

(13) That the expenses that will necessarily be incurred by the Control Committee during the season April 1, 1936, to March 31, 1937, for general overhead expenses of the Control Committee will be approximately \$11,550; that said expenses are fair and reasonable; and that the pro rata share thereof of each shipper in the amount of 4 mills per

hundred pounds of such fruit shipped is fair and reasonable and is approved;

(14) That the interest of the consumer is protected by reason of the fact that this order is designed to operate so as to approach the level of prices which it is declared to be the policy of Congress to establish by securing a gradual correction of the current level of prices at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in the domestic and foreign markets, and by reason of the fact that the order authorizes no action which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish under subsection (1) of Section 2 of said Title I; and

(15) That the issuance of this order and all the terms and conditions thereof, will tend to effectuate the declared policy to establish and maintain such marketing conditions for fresh pears, plums, and Elberta peaches grown in the State of California as will reestablish prices to growers at a level that will give such commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of such commodities in the base period; and

Whereas, the Secretary of Agriculture finds (1) that the marketing agreement regulating the shipping of fresh pears, plums, and Elberta peaches grown in the State of California, executed by him on the 23rd day of May 1936, and upon which a public hearing was held on February 20, 1936, was signed by shippers who handled more than 50 percent of the volume of such commodities produced annually; and (2) that this order regulates the handling of said commodities in the same manner as the said marketing agreement does, and is made applicable only to persons in the respective classes of industrial and commercial activity specified in the aforesaid marketing agreement; and

Whereas, the Secretary of Agriculture finds and determines that the issuance of this order is favored by producers who, during the period January 1, 1934, to December 31, 1935, which the Secretary determines to be a representative period, produced for market at least two-thirds of the volume of each of such commodities produced for market within the production area specified in such order; and

Whereas, the purposes of this order are (1) to correct conditions now obtaining in the handling of fresh pears, plums, and Elberta peaches grown in the State of California, and to establish and maintain such marketing conditions therefor as will reestablish prices to farmers at a level that will give fresh pears, plums, and Elberta peaches grown in the State of California a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of fresh pears, plums, and peaches during the period 1920-28, and (2) to protect the interest of the consumer by (a) approaching such level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action which has for its purpose the maintenance of prices to farmers above such level.

Now, therefore, it is ordered by the Secretary of Agriculture, acting under the authority vested in him as aforesaid, that the shipping of said pears, plums, and Elberta peaches grown in the State of California, in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodities, from or after the date herein specified shall be in conformity to and in compliance with the terms and conditions of this order.

#### ARTICLE I. DEFINITIONS

##### SECTION 1. Definitions.—As used in this order.

1. "Secretary" means the Secretary of Agriculture of the United States.

2. "Act" means the Agricultural Adjustment Act, approved May 12, 1933, as amended.

3. "Person" means individual, partnership, corporation, association, or any other business unit.



4. "Fruit" means any and all varieties of pears, plums, and Elberta peaches grown in the State of California, and shipped in fresh form.

5. "Grower" or "Producer" means any person who produces fruit, as owner or tenant, for sale or shipment in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect such commerce.

6. "To ship" means to convey or cause to be conveyed, except as a common carrier for another person, to market, to consign or in any way to handle fruit in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect such commerce.

7. "Shipper" means any person engaged in shipping fruit from or within California, in person or through an agent, broker, or representative, employee, or otherwise, in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect such commerce.

8. "Season" means the twelve-month period beginning April 1 and ending March 31, both inclusive.

9. "Subsidiary" means any person, of or over whom or which a shipper or an affiliate of a shipper has, or several shippers collectively have, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

10. "Affiliate" means any person or any subsidiary thereof who or which has, either directly or indirectly, actual or legal control of or over a shipper, whether by stock ownership or in any other manner.

11. "Agreement" means the Marketing Agreement Regulating the Shipping of Fresh Pears, Plums, Elberta Peaches, Apricots, and Cherries grown in the State of California.

12. "Variety" means any sub-species of fruit generally recognized by the trade, such as the Santa Rosa plum, Elberta peach, or Buerro Hardy pear.

#### ARTICLE II. SUPERVISORY BODIES

**SECTION 1. Control Committee Membership.**—1. A Control Committee is hereby established consisting of twelve (12) shipper members and thirteen (13) grower members. The members and alternates shall be selected annually for a term ending March 1, and until their successors are selected and have qualified.

2. The Secretary shall select the members of the Control Committee and their respective alternates from persons nominated by shippers and from persons nominated by the respective commodity committees as hereinafter provided, or from among other persons.

3. Nominations for and selection of the twelve (12) members and twelve (12) alternates of the Control Committee to represent shippers shall be made in the following manner:

(a) Elective bodies may be formed consisting of any shipper or group of shippers who shipped at least one-third of the total tonnage of fruit shipped during the preceding marketing period by all shippers. Each elective body shall be entitled to nominate five (5) persons for members and five (5) persons for alternates. In the event an elective body is composed of more than one (1) shipper, each such shipper shall cast his vote on the basis of fruit shipped by such shipper during the previous marketing period. Voting shall be cumulative. Shippers who have sufficient tonnage to form singly one or more elective bodies shall not be entitled to use their fractional tonnage toward the formulation of an additional elective body.

(b) In the event nominations for the full shipper membership and their alternates of the Control Committee are not made by elective bodies, as provided for in sub-paragraph (a) of this paragraph, by February first of each year, the then existing Control Committee shall announce a time and place of an election meeting of all shippers of fruit who have not individually or collectively formed an elective body nor in any manner participated therein and shall conduct such election: *Provided, however,* That for the season of 1936, such election shall be held if nominations for the full shipper membership of the Control Committee are not made by elective bodies, as provided for in sub-paragraph (a) of this paragraph, within thirty (30) days after the effective

date of this order. At said election meeting such shippers shall make one nomination for each of the remaining members and one nomination for each of their alternates and shall make one additional nomination for members and one additional nomination for alternates. In such an election, each such shipper shall cast but one vote. No shipper who, either singly or combined, formed an elective body or participated therein shall participate in or vote at such election. Nominations for the initial shipper members and alternates of the Control Committee shall be supervised by the persons constituting the Control Committee of the Marketing Agreement for California Fresh Deciduous Tree Fruits, except Apples executed by the Secretary on July 17, 1935.

(c) No shipper shall be entitled to participate in the nomination of members and alternates of the Control Committee or be eligible for membership on either the Control Committee or the Sales Managers' Committee if he has failed to pay his contributions pursuant to article VII of this order.

(d) From the nominations made by each elective body pursuant to sub-paragraph (a) of this paragraph, or from other persons, the Secretary shall select four (4) members and four (4) alternates. From the nominations made pursuant to subparagraph (b) of this paragraph, or from other persons, the Secretary shall select the remaining shipper members of the Control Committee.

4. Nominations for the thirteen (13) members and thirteen (13) alternates of the Control Committee to represent growers shall be made by the Commodity Committees in the following manner:

(a) A nomination for one member and a nomination for the alternate of such member shall be made by each Commodity Committee. Nominations for the remaining members and alternates to represent growers shall be made by the respective Commodity Committees. The number of the remaining members and their alternates which each Commodity Committee shall be entitled to nominate shall be based upon the proportion that the previous three years' shipments of the fruit under its jurisdiction bears to the total shipments of all fruit covered by this order during such previous three years.

(b) A person nominated by any Commodity Committee for a member or alternate of the Control Committee shall be an individual person who is solely a producer or who produces at least fifty-one (51) percent of the total fruit shipped by him. In the nomination of such persons for members or alternates of the Control Committee, each member of the respective Commodity Committees shall have but one (1) vote.

(c) From the nominations made pursuant to paragraph 4 of this section, or from other persons, the Secretary shall select the grower members of the Control Committee.

**SEC. 2. Commodity Committee Membership.**—A Commodity Committee consisting of seven (7) members shall be established for each of the following fruits: Bartlett pears, fall and winter pears, Elberta peaches, and plums.

2. Members and alternates for each Commodity Committee shall be selected annually for a term ending February 15, and until their respective successors are selected and have qualified.

3. The Secretary shall select the members of each Commodity Committee and their respective alternates from nominations made by growers as hereinafter provided, or from among other persons. Two (2) persons shall be nominated for each member and two (2) persons shall be nominated for the alternate of each such member. Such nominations shall be made by growers in the respective districts as hereinafter provided.

4. The area covered by this order is hereby delimited into the following districts:

(a) District #1 (North Sacramento Valley) shall consist of Glenn County, Shasta County, Tehama County, Modoc County, Siskiyou County, Lassen County, Plumas County, and Colusa County.

(b) District #2 (Central Sacramento Valley) shall consist of Sutter County, Butte County, Yuba County, and Sierra County.



(e) District #3 (Sacramento River) shall consist of Sacramento County, that portion of Yolo County east of a straight line from the northwest corner of Sacramento County to the northeast corner of Solano County, and that portion of Solano County east of a straight line from the northeast corner of Solano County to the town of Rio Vista.

(d) District #4 (Eldorado) shall consist of Eldorado County.

(e) District #5 (Colfax) shall consist of Nevada County and that portion of Placer County north and east of a straight line running northwest through the town of Bowman and extending to the Bear River and southeast to the American River.

(f) District #6 (Placer) shall consist of that portion of Placer County not included in District #5.

(g) District #7 (Vaca) shall consist of that portion of Yolo County not included in District #3 and that portion of Solano County not included in District #3.

(h) District #8 (Contra Costa) shall consist of Contra Costa County.

(i) District #9 (Santa Clara) shall consist of Alameda County, Monterey County, Santa Clara County, San Mateo County, Santa Cruz County, and San Benito County.

(j) District #10 (Lake) shall consist of Lake County.

(k) District #11 (North Coast) shall consist of Mendocino County, Humboldt County, Trinity County, and Del Norte County.

(l) District #12 (South Coast) shall consist of San Luis Obispo County, Santa Barbara County, Ventura County, and that portion of Los Angeles County south of the Tehachapi Mountains and west of a straight line running from the town of Saugus to Point Permin.

(m) District #13 (Stockton) shall consist of San Joaquin County, Amador County, Calaveras County, and Alpine County.

(n) District #14 (Stanislaus) shall consist of Merced County, Stanislaus County, Tuolumne County, and Mariposa County.

(o) District #15 (Fresno) shall consist of Madera County, Fresno County, and Mono County.

(p) District #16 (Tulare) shall consist of Kings County and Tulare County.

(q) District #17 (Kern) shall consist of that portion of Kern County west of the Tehachapi Mountains.

(r) District #18 (Tehachapi) shall consist of that portion of Los Angeles County north of the San Gabriel Mountains and that portion of Kern County not included in District #17 and Inyo County.

(s) District #19 (Southern California) shall consist of San Bernardino County, Orange County, San Diego County, Imperial County, Riverside County, and that portion of Los Angeles County not included in Districts #12 and #18.

(t) District #20 (North Bay) shall consist of Sonoma County, Napa County, and Marin County.

5. (a) Nomination of members and alternates shall be made from the Districts described in paragraph 4 of this section in the following manner:

(1) *Fall and Winter Pear Commodity Committee.*—Ten (10) nominees for members and ten (10) nominees for alternates from District Number 9.

Two (2) nominees for a member and two (2) nominees for an alternate from District Number 4.

Two (2) nominees for a member and two (2) nominees for an alternate from all of the areas covered by this order not included in Districts Number 9 and Number 4.

(2) *Bartlett Pear Commodity Committee.*—Two (2) nominees for a member and two (2) nominees for an alternate from Districts Number 2 and Number 5.

Two (2) nominees for a member and two (2) nominees for an alternate from District Number 6.

Four (4) nominees for members and four (4) nominees for alternates from Districts Number 3 and Number 13.

Two (2) nominees for a member and two (2) nominees for an alternate from Districts Number 10, Number 11, and Number 18.

Two (2) nominees for a member and two (2) nominees for an alternate from District Number 4.

Two (2) nominees for a member and two (2) nominees for an alternate from all of the area covered by this order not included in Districts Number 2, Number 5, Number 6, Number 3, Number 13, Number 10, Number 11, Number 18, and Number 4.

(3) *Elberta Peach Commodity Committee.*—Four (4) nominees for members and four (4) nominees for alternates from District Number 15.

Two (2) nominees for a member and two (2) nominees for an alternate from Districts Number 16 and Number 17.

Four (4) nominees for members and four (4) nominees for alternates from District Number 14.

Two (2) nominees for a member and two (2) nominees for an alternate from District Number 1.

Two (2) nominees for a member and two (2) nominees for an alternate from all of the area covered by this order not included in Districts Number 15, Number 16, Number 17, Number 14, and Number 1.

(4) *Plum Commodity Committee.*—Six (6) nominees for members and six (6) nominees for alternates from Districts Number 5 and Number 6.

Two (2) nominees for a member and two (2) nominees for an alternate from Districts Number 2 and Number 7.

Four (4) nominees for members and four (4) nominees for alternates from Districts Number 15, Number 16, Number 17, and Number 19.

Two (2) nominees for a member and two (2) nominees for an alternate from all of the area covered by this order not included in Districts Number 5, Number 6, Number 2, Number 7, Number 15, Number 16, Number 17, and Number 19.

(b) Said nominations shall be made by growers at general elections in the respective districts, at which elections all growers of the fruit involved shall be entitled to vote. At such an election each grower shall be entitled to cast but one (1) vote on behalf of himself, agents, partners, affiliates, subsidiaries, and representatives. Nominations for members of Commodity Committees shall be supervised by the then existing Control Committee, which from time to time shall prescribe therefor such procedure as shall be fair to all concerned: *Provided, however,* That nominations for the initial members and alternates for the Commodity Committee shall be supervised by the persons constituting the Control Committee of the Marketing Agreement for California Fresh Deciduous Tree Fruits, except Apples, executed by the Secretary on July 17, 1935.

Sec. 3. *Failure to Select Nominees.*—In the event nominations are not made pursuant to section 1 of this article by April 15, or pursuant to section 2 by March 15, the Secretary may select such members and alternates without regard to nominations.

Sec. 4. *Vacancies.*—To fill any vacancy occasioned by the removal, resignation, disqualification, or death of any member or alternate of the Control Committee or any Commodity Committee, a successor for his unexpired term shall be selected in the manner previously indicated in this article. If such nominations for any such vacancy are not made within twenty (20) days the Secretary may select such member without regard to nominations.

Sec. 5. *Organization.*—1. (a) The Control Committee shall not perform any of its duties, or exercise any of the powers herein granted while there are more than seven (7) vacancies in its membership.

(b) A majority of all members of the Control Committee shall constitute a quorum and any action of the Control Committee shall require the concurrence of the majority of all members present.

2. (a) A Commodity Committee shall not perform any of its duties or exercise any of the powers herein granted while there are more than two (2) vacancies in its membership.

(b) Five (5) members of a Commodity Committee shall constitute a quorum.

3. The Control and Commodity Committees shall give the Secretary or his designated agents and representatives the



same notice of meetings as is given the members of the respective committees.

**SEC. 6. Inability of Members to Serve.**—1. An alternate for a member of the Control or Commodity Committee selected pursuant to the provisions of this article, may act in the place and stead of such member (a) in his absence, or (b) in the event of his removal, resignation, disqualification, or death until a successor for his unexpired term has been selected.

2. The shipper members of the Control Committee shall serve without compensation, but shall be entitled to expenses necessarily incurred in the performance of their duties hereunder. The members of the Commodity Committees and grower members of the Control Committee may be paid a compensation of five (\$5.00) dollars per diem for attendance at meetings, together with travelling expenses.

**SEC. 7. Powers of Control Committee.**—The Control Committee shall have the following powers:

1. To administer, as hereinafter specifically provided, the terms and provisions of this order;
2. To make, in accordance with the provisions hereinafter contained, administrative rules and regulations;
3. To receive, investigate, and report to the Secretary complaints of violations of this order; and
4. To recommend to the Secretary amendments to this order.

**SEC. 8. Duties of Control Committee.**—The Control Committee shall have the following duties:

1. To act as intermediary between the Secretary and any grower or shipper;
2. To keep minute books and records which will clearly reflect all of its acts and transactions, which minute books and records shall at any time be subject to the examination of the Secretary;
3. To furnish to the Secretary such available information as he may request;
4. To appoint a manager who shall also act as secretary of all committees, such employees as it may deem necessary, and to determine the salaries and define the duties of any such employees;
5. To perform such duties in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public, No. 320, approved by the President on August 24, 1935, as amended, as may from time to time be assigned to it by the Secretary;
6. To submit to the Secretary, for his approval, a budget of its expenses;
7. To confer with representatives of shippers and growers of fruit produced in other states and areas with respect to the formulation or operation of marketing agreements and orders providing for the regulation of shipments among the several areas in the United States where such fruit is grown;
8. To establish a sales managers' committee of seven (7) members, the members of which shall be selected by the shipper members of the Control Committee. No sales manager shall be eligible for membership unless the organization he represents has paid its contribution pursuant to article VII hereof. One member shall be the representative of a cooperative marketing association. The sales managers' committee shall meet and advise with the commodity committees at all meetings which may pertain to (1) limitation of shipments pursuant to article III, or (2) regulation of grades and sizes pursuant to article IV, or (3) regulation of daily shipments pursuant to article V hereof;
9. To establish and define the duties of additional committees or subcommittees to assist it in the performance of any of its duties and functions hereunder;
10. To disapprove by affirmative vote of seven (7) members any action or recommendation of any Commodity Committee: *Provided*, That, in disapproving any recommendation of any Commodity Committee to the Secretary, the reasons therefor shall be immediately submitted to the Secretary;

11. With the approval of the Secretary, to (1) redefine the districts into which the State of California has been delimited by this order or (2) change the representation of

any district on any Commodity Committee: *Provided, however*, That if any of such changes are made, representation on any such committee from the various districts shall be based, so far as practicable, upon the proportionate quantity of the particular fruit shipped from the respective districts during the preceding three years;

12. With the approval of the Secretary, to incorporate as a non-profit organization: *Provided*, That such corporation shall not exercise powers expressly or by implication prohibited hereunder and that it shall be subject to all the duties and obligations imposed upon the Control Committee hereunder; and: *Provided, further*, That the stockholders and directors of any such corporation shall be the members of the Control Committee selected by the Secretary pursuant to this order;

13. To defend all legal proceedings against any committee members (individually or as members) or any officers or employees of such committees arising out of any act or omission made in good faith pursuant to the provisions of this order.

**SEC. 9. Transmission of Powers and Duties of Control Committee.**—In the event that the Control Committee incorporates pursuant to paragraph 12 of section 8 of this article, the powers and duties conferred upon the Control Committee by this order shall devolve upon such corporation: *Provided, however*, That at no time shall such corporation perform any of the powers and duties previously possessed by the Control Committee unless the membership of the governing authority of such corporation is identical with the membership of the Control Committee.

**SEC. 10. Powers and Duties of a Commodity Committee.**—Each Commodity Committee shall have the following powers and duties:

1. With respect to the fruit under its jurisdiction, to recommend to the Secretary, upon the affirmative vote of at least five (5) members, a limitation of shipments pursuant to article III or a regulation of grades or sizes of fruit shipped pursuant to article IV or a regulation of daily shipments pursuant to article V, and to possess such other powers and exercise such other duties as are set forth in this order;
2. To make such rules and regulations with respect to fruit under its jurisdiction as may be necessary to effectuate the terms and provisions of articles III, IV, V, and VI of this order;
3. To submit a budget of its expenses to the Control Committee for the approval of the Control Committee;
4. To furnish to the Control Committee and to the Secretary a record of the minutes of its meetings;
5. To establish in each district growers' advisory committees to be composed of growers of said districts, which said committees shall consult with and advise the Commodity Committee;
6. To establish such other committees to aid it in the performance of its duties hereunder as it may deem advisable.

**SEC. 11. Unassembled Voting.**—The Control Committee or any Commodity Committee may, upon due notice to all of its members, provide for voting by letter, telegraph, or by telephone: *Provided, however*, That if such vote is by telephone it shall be immediately confirmed by telegram or letter.

**SEC. 12. Removal and Disapproval.**—The members of the Control Committee or of any Commodity Committee, and any agent or employee appointed or employed by any such committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the Control Committee or of any Commodity Committee, shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon such disapproval, shall be null and void except as to acts done in reliance thereon or in compliance therewith.

**SEC. 13. Funds.**—All funds received by the Control Committee pursuant to any provisions of this order shall be used solely for the purposes herein specified and shall be accounted for in the following manner:



1. The Secretary may require the Control Committee and its members to account for all receipts and disbursements; and

2. Upon the resignation, removal, or expiration of the term of office of any member of the Control Committee, all books, records, funds, and other property in his possession shall be delivered to the Control Committee, or to his successor in office, and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee or his successor full title to all of the books, records, funds, and other property in his possession or under his control.

#### ARTICLE III. PERIOD PRORATION

**SECTION 1. Establishment of Period Proration.**—1. It shall be the duty of each Commodity Committee to investigate supply and demand conditions with respect to the fruit under its jurisdiction. Whenever any such Commodity Committee deems it advisable to regulate the shipment of such fruit during any particular period or periods, it shall recommend to the Secretary the establishment of a proration period or a series of proration periods during which the shipment of fruit may be regulated pursuant to the methods provided in this article. When any Commodity Committee contemplates such recommendation for the establishment of such a proration period or series of proration periods, it shall call a meeting of such Committee at least twenty-four (24) hours prior to the contemplated commencement of any such proration period or series of proration periods for the consideration of such action, and shall give notice to shippers of such contemplated action.

2. Based upon the recommendations made pursuant to paragraph 1 of this section, and section 7 of this article, and the information accompanying such recommendations, or upon other information, the Secretary shall establish a regulation period or series of regulation periods, including the time of commencement, duration and termination thereof, if the Secretary deems it advisable to regulate the shipment of such fruit. Notice of the establishment of such proration period or series of proration periods and the date of commencement, duration, and termination thereof shall be given by the Secretary to the Commodity Committee by telegraph or in any other manner which the Secretary deems sufficient.

**SEC. 2. Definitions.**—For the purposes of this article "cold storage" means the retention of fruit in refrigeration storage exclusive of refrigerator cars, trucks, or vessels, for a period of time longer than one hundred and twenty (120) hours; "available for shipment", unless otherwise specified, means the quantity of fruit not in cold storage which (a) meets the requirements of sections 791, 794, 803, 804, 805, and 806 of the Agricultural Code of the State of California, (b) conforms to the grade and/or size permitted to be shipped under article IV hereof, (c) is ready or to be ready for shipment, and (d) growers or shippers intend to ship during the limitation period.

**SEC. 3. Reports from Shippers.**—Each shipper desiring to ship fruit during such contemplated proration period shall report to the Commodity Committee the quantity of fruit available for shipment during such contemplated proration period, which he owns or has authority from the owner or grower thereof to ship, together with the name of each such owner or grower, and the quantity of fruit which he is authorized to ship for each such owner or grower and which is intended for shipment during such contemplated proration period. Reports shall be made at such time and substantiated in such manner as the Commodity Committee shall prescribe. Each grower who has not given a shipper authority to ship his fruit may make a similar report.

**SEC. 4. Revision of Reports.**—The Commodity Committee may check the accuracy of any report filed pursuant to section 3 and may verify the same in such manner as it may determine, and, on the basis of its findings, may revise and correct any such report.

**SEC. 5. Determination of Quantity Available for Shipment.**—From the reports filed with the Commodity Commit-

tee pursuant to section 3 hereof, as the same may be revised and corrected pursuant to section 4 hereof, said Committee shall determine for each and all shippers the quantity of fruit available and intended for shipment during such contemplated period.

**SEC. 6. Determination of Advisable Shipments.**—The Commodity Committee shall determine, for each contemplated proration period, the total quantity of fruit which it deems advisable to be shipped during such contemplated proration period. In determining such advisable quantity, said Committee shall give consideration to the supply of and demand for the fruit for which proration is contemplated.

**SEC. 7. Recommendations to the Secretary.**—The Commodity Committee shall report as recommendations to the Secretary its determinations made pursuant to sections 4, 5, and 6 of this article, and shall also report the facts upon which such recommendations were based, and such additional information as the Secretary may from time to time request.

**SEC. 8. Determinations of Allotments by the Secretary.**—1. From the facts reported and the recommendations made pursuant to section 7 of this article, or from other information, the Secretary shall determine:

(a) The quantity of fruit which each shipper has available for shipment during such proration period;

(b) The total quantity of fruit which all shippers have available for shipment during such proration period; and

(c) The total quantity of fruit advisable for shipment during such proration period.

2. The Secretary shall advise the Commodity Committee of the determinations made pursuant to paragraph 1 of this section, and the Commodity Committee shall calculate the allotment percentage by dividing the total quantity of fruit advisable for shipment, as determined by the Secretary, by the total quantity of fruit which shippers have available for shipment during such period, as determined by the Secretary.

3. The Commodity Committee shall multiply the quantity of fruit which each shipper has available for shipment during such proration period, as determined by the Secretary, by the allotment percentage, and the result of such multiplication shall be the allotment fixed by the Secretary for each such shipper. The Commodity Committee shall notify each shipper of his allotment and of the allotment percentage.

4. Each shipper shall apportion the quantity of fruit represented by his allotment equitably among the growers whose fruit he reported to the Commodity Committee pursuant to section 3 of this article by applying the allotment percentage for each period to the available supply of each such grower as determined by the Secretary.

**SEC. 9. Proration from Cold Storage.**—In the event the quantity of fruit not in cold storage and available for shipment is less than the quantity advisable for shipment, fruit in cold storage available for shipment may be prorated in the same manner as prescribed in this article for proration of fruit not in cold storage. For the purposes of prorating the shipments of cold storage fruit, "advisable for shipment" shall mean the quantity of fruit advisable for shipment from the state, less the quantity of fruit not in cold storage available for shipment. "Available for shipment" shall mean fruit in cold storage in the State of California, which otherwise meets the requirements of fruit available for shipment as defined in section 2 of this article.

**SEC. 10. Transfer of Allotments.**—Any shipper to whom an allotment has been made may transfer such allotment, in whole or in part. The amount of such transfers shall be deducted from the allotment of the transferor and added to the allotment of the transferee.

**SEC. 11. Over and Undershoots.**—No shipper shall ship fruit in excess of his allotment for any proration period except for additional allotments transferred to him pursuant to the foregoing provisions of this article: *Provided, however,* That shipment of less than one carload in excess of a shipper's allotment shall not be a violation of this order if such shipper advises the Commodity Committee of such overshoot within forty-eight (48) hours. The quantity of fruit shipped in excess of the allotment shall be offset by



a reduction of an equal amount from the quantity of fruit represented by his allotment for the next proration period, or if such allotment is less than the overshipment then such excess shipment shall be deducted from the quantity of fruit represented by succeeding allotments until such excess shipment has been entirely offset. If any shipper ships less than his allotment for a particular proration period, such shipper may ship, during only the next proration period in which such shipper is given an allotment, in addition to his allotment, a quantity equal to such undershipment: *Provided*, That such undershipment is reported to the Commodity Committee prior to the commencement of such succeeding period and request made in writing for such shipment in addition to his allotment.

**Sec. 12. Cancellation of Proration Period.**—If the limitation of shipments during any proration period is rendered unnecessary by reason of unforeseen increased demand, reduction in the available supply, or other causes, the Secretary may terminate such proration period.

**Sec. 13. Petitions for Adjustments of Reports for Allotments.**—Any shipper or grower dissatisfied with the revision of his report by the Commodity Committee may request a reconsideration of such revision by such Committee and may appeal to the Secretary. In the event of such appeal to the Secretary, the Commodity Committee shall furnish a report to the Secretary setting forth the action taken and the reasons therefor. The petitioner involved shall abide by the determination of the Commodity Committee pending the disposition of such appeal by the Secretary.

#### ARTICLE IV. REGULATION BY GRADES AND SIZES

**SECTION 1. Recommendation of the Commodity Committee.**—Whenever a Commodity Committee deems it advisable to regulate the shipment of any grade or size of any variety or varieties of fruit under its jurisdiction from any or all districts, it may so recommend to the Secretary. The Commodity Committee shall furnish the Secretary the facts upon the basis of which it acted in making such recommendation, which shall include facts affecting the supply of and the demand for fruit by grades and sizes thereof, and any other information requested by the Secretary.

**Sec. 2. Regulation of Shipments.**—1. Based upon such recommendation and information furnished by the Commodity Committee, or upon other information, the Secretary may limit the total quantity of any grade or size of any variety or varieties of fruit which may be shipped during any period from any or all districts.

2. When the Secretary determines to regulate shipments as provided herein, he shall immediately notify the Commodity Committee of the determinations made by him pursuant to paragraph 1 of this section, and the Commodity Committee shall give notice to shippers thereof.

3. No shipper shall ship any fruit in violation of a regulation of shipments established as provided in this article.

**Sec. 3. Exemptions.**—1. In the event the shipment of any variety or varieties of fruit from any district or districts is regulated in accordance with this article, thereupon whenever the Commodity Committee shall find that one-half ( $\frac{1}{2}$ ) of the estimated shipments for the marketing period of such variety or varieties of fruit in any district or districts has been shipped, it shall, or at any time before one-half ( $\frac{1}{2}$ ) of such estimated shipments of such variety or varieties of fruit in such district or districts has been shipped, it may determine and announce the percentages which the grades and sizes of such variety or varieties of fruit which are permitted to be shipped are of the total of the estimated shipments for the marketing period in the absence of regulation of such variety or varieties in such district or districts, and at the same time shall announce the procedure by which special certificates will be issued to growers as set forth in paragraph 2 of this section.

2. If any grower of such variety or varieties of fruit shall show to the Commodity Committee that the regulation of shipments will allow him to ship during the period a percentage of his estimated shipments for the marketing period

in the absence of regulation of such variety or varieties of fruit which is less than the percentage found in accordance with paragraph 1 of this section for his district, the Commodity Committee shall issue to such grower an exemption certificate allowing shipment of such a quantity of the limited grade and size of such variety or varieties of fruit as will enable him to ship during the period a percentage of his estimated shipments for the marketing period in the absence of such regulation equal to the percentage found in accordance with paragraph 1 of this section.

3. If any grower is dissatisfied with the determination by the Commodity Committee with respect to such exemption certificate he may appeal to the Secretary, whose decision in the matter shall be final.

**Sec. 4. Inspection Certificates.**—The Secretary may require shippers to submit to the Commodity Committee Federal-State certificates setting out the size and grade of each variety or varieties of fruit, the shipment of which is being regulated pursuant to this article.

#### ARTICLE V. REGULATION OF DAILY SHIPMENTS

**SECTION 1. Definitions.**—As used in this article:

1. "Railroad concentration point" means any railroad point designated by the Commodity Committee and approved by the Secretary;

2. "Cold storage concentration point" means any cold storage plant in the State of California;

3. "Arrive" or "arrival" means:

(a) The actual time of arrival of a car of fruit at a railroad concentration point, if such car is not pre-cooled at such concentration point;

(b) The actual time when pre-cooling is completed if the car of fruit is pre-cooled at the railroad concentration point;

(c) Such time subsequent to the actual delivery of a carload (or equivalent) of fruit at a cold storage concentration point as the Commodity Committee for such fruit may prescribe by rules and regulations approved by the Secretary;

4. "Cold storage" means retention of fruit under refrigeration in a storage warehouse for such period of time and under such conditions as the Commodity Committee may prescribe by rules and regulations approved by the Secretary;

5. "Available" for a particular day means (a) when used with reference to the fruit of a shipper whose fruit is being regulated at concentration point, the quantity of fruit controlled by him arriving at any or all concentration points that day, (b) when used with reference to the fruit of a shipper whose fruit is being regulated at shipping point, the quantity of fruit which he controls packed by or for him that day;

6. "Total available" for a particular day means the quantity available for shipment that day by all shippers whose shipments are regulated at shipping points plus the quantity of fruit arriving that day at all concentration points controlled by all shippers electing regulation at concentration points;

7. "Fruit controlled" means (1) fruit to which the shipper has legal title, (2) fruit on which the shipper has paid at least five (5) percent of the purchase price, or (3) fruit whose owner has authorized a shipper to ship.

**Sec. 2. Establishment of Regulations.**—1. The Commodity Committee for a particular fruit may, from time to time, recommend to the Secretary the regulation of daily shipments of any or all varieties of such fruit during a particular period of time. Such recommendation shall specify (1) the period of time for regulation, (2) the advisable daily shipments during such period, and (3) the variety or varieties to which the regulation shall be applicable; and the Secretary shall be furnished with the information upon which such recommendation was based.

2. If upon the basis of such information and recommendation, or other information available to the Secretary, the Secretary shall find that limitation of daily shipments during a regulation period will effectuate the purposes of this order, he shall establish a regulation period and determine the total advisable quantity of such fruit to be shipped daily



during such period, and shall notify the Commodity Committee of such action. The Commodity Committee shall give such notice thereof as may be reasonably calculated to bring such regulation to the attention of interested persons.

3. Every shipper desiring to ship such fruit from any shipping point during a regulation period shall elect whether such fruit shall be regulated at concentration point or shipping point, and shall advise the Commodity Committee of his choice. The fruit of any shipper who fails to make such election shall be regulated at concentration points. Any shipper electing regulation at concentration point for fruit from any particular shipping point shall not elect regulation at any such shipping point until all such fruit at concentration points has been released.

4. Each shipper whose fruit is regulated at railroad concentration point shall file with the carrier an order directing it to stop each carload of such fruit at such concentration point until its release is ordered by the Commodity Committee.

**Sec. 3. Reports by Shippers.**—1. Each shipper whose fruit is regulated at cold storage concentration points shall report to the Commodity Committee for such fruit the time when each carload equivalent of such fruit controlled by him entered a cold storage point.

2. Each shipper whose fruit is regulated at shipping point shall report daily, to the Commodity Committee for such fruit, the total quantity of fruit controlled by him which he has available at each packing shed on that day.

**Sec. 4. Allotment Percentage.**—The allotment percentage for a particular fruit for a particular day during a regulation period shall be the percentage obtained by dividing the available quantity of such fruit to be shipped that day, determined by the Secretary pursuant to paragraph 2, section 2 of this article, by the total available of such fruit on the first day prior thereto, if then known by the Commodity Committee, otherwise on the second day prior thereto. The total available and allotment percentage shall be calculated by the Commodity Committee: *Provided, however,* That no allotment percentage for Bartlett pears shall be calculated for any day if the Commodity Committee determines that a prohibition of loading of such pears, pursuant to section 8 of this article, has affected the "total available" to be used in calculating the allotment percentage for that day.

**Sec. 5. Allotments at Shipping Point.**—1. The allotment of packages of such fruit of any shipper regulated at shipping point, for a particular day, shall be the result obtained by applying the allotment percentage for that day to such shipper's component part of the total available used in determining said allotment percentage.

2. In the event the allotment percentage for a particular day cannot be calculated pursuant to section 4 of this article, the allotment percentage of the previous day shall be used in calculating allotments for that day: *Provided, however,* That the allotment for that day of any shipper electing regulation at shipping point shall not exceed his allotment of the previous day.

3. The shipment of less than one carload in excess of a shipper's allotment shall not be a violation of this order if such shipper advises the Commodity Committee of such over-shipment. The quantity of fruit shipped in excess of the allotment shall be offset by a reduction of an equal amount from his allotment for the next day, or if such allotment is less than the overshipment then such excess shipment shall be deducted from succeeding allotments until such excess shipment has been entirely offset.

4. If any shipper ships less than his allotment for a particular day, such shipper may ship, during only the next day in which such shipper is entitled to an allotment, in addition to his allotment, a quantity equal to such under-shipment: *Provided,* That such undershipment is reported to the Commodity Committee prior to the commencement of such succeeding day.

5. Except as provided in paragraphs 3 and 4 of this section, no shipper shall ship fruit in excess of his allotment. The Commodity Committee shall determine each shipper's

allotment and advise him thereof, together with the total available fruit used in determining such allotment.

6. Fruit shipped pursuant to allotments at shipping point shall not be detained at concentration points.

7. The quantity of fruit representing the difference between the available quantity which is used as the basis of an allotment of a shipper electing regulation at shipping point, and the allotment of such shipper shall not be shipped by any shipper during such time as regulation pursuant to this article is in effect, except as provided in section 9 hereof. The Commodity Committee may require any shipper to account for the disposition of such quantity of fruit in excess of such an allotment at such time and in such manner as it may prescribe in rules and regulations approved by the Secretary.

**Sec. 6. Shipments from Concentration Points.**—1. The quantity of fruit which may be shipped on any day during a regulation period from all concentration points shall be the total advisable quantity to be shipped that day determined by the Secretary pursuant to paragraph 2 of section 3 of this article, less (a) the quantity of fruit shipped by shippers electing regulation at shipping points and arriving at railroad concentration points in time to depart that day and (b) the quantity of fruit which was shipped by boat by all shippers on such prior day as the Commodity Committee may prescribe in rules and regulations approved by the Secretary.

2. The first carload of fruit arriving at any concentration point and subject to regulation thereat shall be the first carload released for shipment from all concentration points on any particular day, and succeeding carloads shall be released for shipment in the order of arrival until the total quantity for that day has been released. The maximum time that cars may be held in concentration points shall be prescribed by the Commodity Committee in rules and regulations approved by the Secretary: *Provided, however,* That no car shall be held at any concentration point longer than four (4) days whenever there are any cars being regulated at railroad concentration points.

3. Whenever any shipper has one or more carloads of fruit at a concentration point or points which have priority of shipment at a given time, and has also other carloads which do not have priority, such shipper may substitute any carload without priority for any carload having such priority.

**Sec. 7. Adjustment for Shipments by Boat.**—In the event a shipper who elects regulation at concentration point ships a quantity of fruit to destinations within the Continent of North America by boat, each carload of an equivalent quantity of such shipper's fruit at concentration points on such day or days prior to the expected arrival of such boat shipment as said Commodity Committee shall prescribe by rules and regulations approved by the Secretary shall be backed-up in priority the same number of carloads as are represented by such boat shipments.

**Sec. 8. Prohibition of Loading of Bartlett Pears.**—1. If and when the Bartlett Pear Commodity Committee determines that the accumulation of Bartlett pears at any or all concentration points may become excessive, upon the recommendation of this committee, supported by specific information, or upon the basis of other information, the Secretary may prohibit the loading of Bartlett pears for shipment to any or all railroad concentration points for a period of forty-eight (48) hours: *Provided,* That there shall elapse not less than ninety-six (96) hours between the last day of one period and the first day of the next succeeding period.

2. Any quantity of Bartlett pears loaded for shipment to any cold storage concentration point during a prohibition period shall not be eligible for release for shipment during such time as Bartlett pears are being regulated pursuant to this article, except as provided in section 9 hereof.

3. For a period of forty-eight (48) hours succeeding the termination of any prohibition period established pursuant to paragraphs 1 and 2 of this section, no shipper who shipped such fruit to railroad concentration points or shipped such fruit to cold storage concentration points dur-



ing the forty-eight (48) hours prior to such prohibition period shall ship Bartlett pears to concentration points in excess of the quantity of such fruit such shipper so shipped during the period of forty-eight (48) hours prior to such prohibition period.

**SEC. 9. Shipment of Storage Fruit.**—Fruit in cold storage shall not be shipped on any particular day during a regulation period unless the quantity of the fruit regulated at shipping points and arriving at railroad concentration points in time to depart that day plus the quantity of the fruit eligible for release at concentration points that day is less than the total advisable quantity of the fruit for shipment that day. When such conditions exist, such fruit may be released from cold storage for shipment during a regulation period in the same sequence as that in which such fruit has been placed in storage; *Provided, however,* That such releases for shipment from cold storage on any day shall be limited to the amount of the fruit advisable to be shipped pursuant to section 2 of this article less the quantity of the fruit regulated at shipping points and arriving at railroad concentration points in time to depart that day and the quantity of the fruit eligible for release at concentration points on that day; *Provided, further,* That any quantity of fruit in cold storage may be substituted for the same quantity of fruit to be shipped pursuant to regulation at shipping or concentration points.

**SEC. 10. Exceptions.**—Cars containing less than one-half by billing weight of fruit covered by a regulation pursuant to this article shall be exempt from such regulation.

**SEC. 11. Revision and Correction of Reports.**—The Commodity Committee may check the accuracy of any reports filed pursuant to this article and may verify the same in such manner as it may determine, and, on the basis of its findings, may revise and correct any such report.

#### ARTICLE VI. EXEMPTIONS

**SECTION 1. Shipments for Charity or for By-products.**—Nothing contained in this order shall be construed to authorize any limitation on the right to ship fruit in any amount for canning, freezing, conversion into by-products, or for charitable or unemployment relief purposes.

**SEC. 2. Export Shipments.**—Fruit exported to destinations exclusive of the Continent of North America shall not be subject to regulation pursuant to articles III, IV, and V hereof; *Provided, however,* That fall and winter pears for export to destinations exclusive of the Continent of North America may be regulated pursuant to articles III, IV, or V at such times as the Commodity Committee may prescribe with the approval of the Secretary.

#### ARTICLE VII. ASSESSMENTS

**SECTION 1. Expenses and Assessments.**—1. The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out the functions of the Control Committee and Commodity Committees under this order. The funds to cover such expenses shall be acquired by the levying of assessments as hereinafter provided.

2. Each shipper shall pay to the Control Committee upon demand such shipper's pro rata share, as is approved by the Secretary, of the expenses in the amount of \$11,550.00 for general overhead expenses during the 1936-1937 season or expenses in such other amount as the Secretary may later find will necessarily be incurred by said Committee during said season for the maintenance and functioning of the Control and Commodity Committees for general overhead expenses for all fruits during the season as set forth in this order. Each shipper who ships fruit, the shipment of which is being regulated pursuant to article III, article IV or article V of this order, shall also pay to the Control Committee, upon demand, such shipper's pro rata share, as is approved by the Secretary, of the expenses incurred in administering the regulations set forth in said article III, article IV or article V for the particular fruit so regulated. Each shipper's pro rata share of the general administrative expenses shall be that proportion thereof which the total quantity of fruit shipped by such shipper during said season

is of the total quantity of such fruit shipped by all shippers during said season. Each shipper's pro rata share of the expenses necessary in the administration of regulations pursuant to article III, article IV or article V, for a particular fruit, as approved by the Secretary, shall be that proportion thereof which the total quantity of such fruit shipped by such shipper during said season is of the total quantity of such fruit shipped by all shippers during said season. The initial assessment upon each shipper for general administrative expenses shall be 4 mills per 100 pounds of fruit shipped and said assessment shall be adjusted from time to time by the Control Committee, with the approval of the Secretary, in order to provide funds sufficient in amount to cover any later finding by the Secretary of such estimated expenses or actual expenses incurred by the Control Committee during said season. The initial assessment for each shipper of a particular fruit for expenses necessary in the administration of any regulation for such fruit pursuant to article III, article IV, or article V of this order, shall be such amount as is approved by the Secretary and said assessments shall be adjusted from time to time by the Control Committee, with the approval of the Secretary, in order to provide funds sufficient in amount to cover any later finding by the Secretary of such estimated expenses or actual expenses incurred by the Control Committee during said season. The assessments of each shipper for any season shall be due at such time and shall be payable in such installments, if any, as the Control Committee shall determine.

3. For seasons subsequent to the season of 1936, each shipper shall pay to the Control Committee upon demand and in accordance with the procedure given in paragraph 2 of this section such shipper's pro rata share of such expenses as are approved by the Secretary and as he may find will necessarily be incurred by the Control Committee for the maintenance and functioning of the Control and Commodity Committees as set forth in this order.

4. In order to provide funds to carry out the functions of the Control and Commodity Committees prior to the commencement of shipments in any season, shippers may make advance payments of assessments, which advance payments shall be credited to such shippers and the assessments of such shippers shall be adjusted so that such assessments are based upon the quantity of fruit shipped by such shippers during such season.

5. At the end of each season the Control Committee shall credit each contributing shipper with the excess of the amount paid by such shipper above his pro rata share of the expenses, or debit such shipper with the difference between his pro rata share and the amount paid by such shipper. Any such debits shall become due and payable upon the demand of the Control Committee.

6. From funds acquired pursuant to this article the Control Committee shall pay the salaries of the employees of the Control Committee, and the expenses necessarily incurred in the maintenance and functioning of the Control and Commodity Committees in the performance of their duties under this order.

#### ARTICLE VIII. REPORTS

**SECTION 1. Information to Secretary.**—All shippers shall severally, from time to time, upon request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which this order has been carried out or has effectuated the purposes of this order, and with such other information as he finds to be necessary to determine whether or not there has been an abuse of the privilege of exemption from the anti-trust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary.

**SEC. 2. Reports to Committees.**—1. For the purpose of enabling the Control and Commodity Committees to perform their respective functions under this order, each shipper shall furnish to a confidential employee or employees designated by the Control and Commodity Committees, in such form and



at such times and substantiated in such manner as shall be prescribed respectively by the Control and Commodity Committees, information with respect to the quantity, kind, variety, grade, and size of fruit, grower for whom such fruit is shipped, number of cars ordered, car numbers, routing, diversion, and destination of cars shipped during such periods of time as designated respectively by the said Committees. Such information furnished to the aforesaid employee or employees may be compiled in such form as will not reveal the identity of individual informants and such compilations may be made available to the public. Such employees shall not (except in compiled form) reveal any such information or reports to any person other than the Secretary or the Control and Commodity Committees. Neither the Control nor Commodity Committees shall reveal such information or reports to persons other than the Secretary. If any confidential employee discloses any such information or reports except as aforesaid, he shall be subject to immediate removal by the Secretary.

2. Each shipper shall furnish to the appropriate Commodity Committee the time of entrance into cold storage of each carload of fruit which he controls.

3. Upon the request of the Control Committee, made with the approval of the Secretary, each shipper shall furnish to the Control Committee or any Commodity Committee in such manner and at such times as it prescribes, such other information as is necessary to enable any such committee to perform its powers and duties under this order.

#### ARTICLE IX. LIABILITY OF COMMITTEE MEMBERS

SECTION 1. *Liability.*—No member of the Control Committee or any Commodity Committees or any subcommittees nor any employee of the Control Committee shall be held responsible individually in any way whatsoever to any shipper or any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member or employee, except for acts of dishonesty.

#### ARTICLE X. SEPARABILITY

SECTION 1. *Separability.*—If any provision of this order is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this order and/or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

#### ARTICLE XI. DEROGATION

SECTION 1. *Derogation.*—Nothing contained in this order is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (1) to exercise any powers granted by the act or otherwise, and/or (2) in accordance with such powers to act in the premises whenever such action is deemed advisable.

#### ARTICLE XII. DURATION OF IMMUNITIES

SECTION 1. *Duration of Immunities.*—The benefits, privileges, and immunities conferred by virtue of this order shall cease upon its termination except with respect to acts done under and during the existence of this order.

#### ARTICLE XIII. AGENTS

SECTION 1. *Agents.*—The Secretary may by a designation in writing name any person, including any officer or employee of the Government, or any Bureau or Division in the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.

#### ARTICLE XIV. EFFECTIVE TIME AND TERMINATION

SECTION 1. *Effective Time.*—This order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until April 1, 1938, unless terminated prior to such time in one of the ways hereinafter specified.

SEC. 2. *Termination.*—1. The Secretary may at any time terminate this order by giving at least one (1) day's notice by means of a press release or in any other manner which the Secretary may determine.

2. The Secretary shall terminate or suspend the operation of this order, or of any provision thereof, whenever he finds that said order, or any provision thereof, obstructs or does not tend to effectuate the declared policy of the act.

3. The Secretary shall terminate this order as to a particular fruit covered hereby at the end of any marketing period for such fruit whenever he finds that such termination is favored by a majority of the growers of such fruit who, during the current marketing period for such fruit, have been engaged in the production of such fruit in the area covered by this order for shipment in fresh form: *Provided*, That such majority have, during such period, produced for fresh shipment more than fifty (50) percent of the volume of such fruit produced for fresh shipment within the area, but such termination shall be effective only if announced on or before July 30 in the case of winter pears, and on or before March 30 in the case of other fruits. The marketing period for all fruits except fall and winter pears shall be April 1 of one year until March 31 of the following year, and the marketing period for fall and winter pears shall be August 1 of one year until July 31 of the following year.

4. This order shall terminate whenever the provisions of the act authorizing it cease to be in effect.

SEC. 3. *Proceedings after Termination.*—1. Upon the termination of this order, the members of the Control Committee then functioning shall continue as joint trustees, for the purpose of this order, of all funds and property then in the possession or under the control of the Control Committee, including claims for any funds unpaid or property not delivered at the time of such termination. Said trustees (a) shall continue in such capacity until discharged by the Secretary; (b) shall from time to time account for all receipts and disbursements and/or deliver all funds and property on hand, together with all books and records of the Control Committee and the joint trustees, to such person as the Secretary shall direct; and (c) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds and/or claims vested in the Control Committee or the joint trustees pursuant to this order; and (d) shall refund to each contributing shipper the excess of the amount paid by such shipper above his pro rata share of expenses, or debit each shipper with the difference between his pro rata share and the amount paid by any such shipper, if such amount is less than his pro rata share. Any such debit shall become due and payable upon the demand of the said trustees. Nothing stated herein shall be deemed to preclude the bringing of a suit for assessments levied by the Control Committee at any time prior to the termination of this order.

2. Any person to whom funds, property, and/or claims have been delivered by the Control Committee or its members upon direction of the Secretary, as herein provided, shall be subject to the same obligations and duties with respect to said funds, property, and/or claims as are hereinabove imposed upon the members of said Committee or upon said joint trustees.

In witness whereof, the Secretary of Agriculture does hereby execute in duplicate, and issue this order in the City of Washington, District of Columbia, on this 23rd day of May 1936, and pursuant to the provisions hereof declares this order to be effective on and after a. m. Eastern Standard Time May 25, 1936.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[Filed, May 23, 1936; 3:36 p. m.]

#### SUSPENSION OF COLLECTION OF ASSESSMENTS ON SHIPMENTS OF CITRUS FRUIT FROM THE STATE OF FLORIDA PRIOR TO SEPTEMBER 1, 1936

Whereas, subsection 2 of section 1 of article III of the order and the marketing agreement regulating the handling of citrus fruit grown in the State of Florida, executed by the Secretary of Agriculture on May 4, 1936, provides that every handler shall pay, at such time as the Control Committee shall determine, one-half ( $\frac{1}{2}$ ) cent per standard packed box



of citrus fruit on all boxes of such fruit shipped by such handler up to September 1, 1936; and

Whereas, subsection 2 of section 1 of article III of said order and marketing agreement further provides that if the Secretary of Agriculture shall find that the rate of assessment fixed by the said subsection will result in the collection of a sum greater than the expenses incurred in the administration of said order and marketing agreement, he shall decrease the rate of assessment, so that the funds received from the collection of assessments will more nearly equal the expenses; and

Whereas, the said Control Committee has informed the Secretary of Agriculture that no expenses will be incurred in connection with the administration of the said order and marketing agreement prior to September 1, 1936, and has recommended the suspension of the collection of assessments on all shipments of citrus fruit made prior to September 1, 1936;

Now, therefore, the Secretary of Agriculture hereby suspends the collection of assessments under the said order and said marketing agreement on all citrus fruit shipped prior to September 1, 1936, until further notice.

In witness whereof, the Secretary of Agriculture does hereby execute in duplicate and issue this order, in the city of Washington, District of Columbia, on the 25th day of May 1936, and declares this order to be effective on and after 12:01 a. m., eastern standard time, May 27, 1936.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[Filed, May 25, 1936; 12:38 p. m.]

## DEPARTMENT OF COMMERCE.

### Bureau of Air Commerce.

#### AIR COMMERCE REGULATIONS

#### AERONAUTICS BULLETIN NO. 7

[Edition of January 1, 1934]

#### Amendment No. 3

Pursuant to Section 3 (c) of the Air Commerce Act of 1926, as amended (44 Stat. 568), Chapter 5 of Aeronautics Bulletin No. 7 is hereby amended by inserting after the first sentence of Paragraph (D) of Section 50 thereof a semi-colon and the following:

*Provided, however,* that no such waivers will be granted to transport pilots who desire to take the necessary technical tests for scheduled air transport pilot's rating.

so that the paragraph will read:

(D) *Waivers.*—In the case of trained, experienced pilots, the Secretary of Commerce may grant waivers for physical defects designated as disqualifying by these regulations when, in his opinion, the experience of the pilot will compensate for the defect; provided, however, that no such waivers will be granted to transport pilots who desire to take the necessary technical tests for scheduled air transport pilot's rating. A waiver once granted for any grade of license will hold indefinitely for that grade only so long as the defect for which it was granted has not increased or unless canceled by the Secretary of Commerce.

Approved, to take effect June 1, 1936.

DANIEL C. ROPER,  
Secretary of Commerce.

[Filed, May 25, 1936; 10:08 a. m.]

## FEDERAL COMMUNICATIONS COMMISSION.

### COMMISSION ORDER NO. 14

At a general session of the Federal Communications Commission held at its offices in Washington, D. C. on the 13th day of May 1936:

The Commission, having under consideration Rule 229 of its Rules and Regulations, has determined that in order to prevent interference between stations and to carry out the provisions of the Communications Act, the public con-

venience, interest, and necessity requires that said Rule 229 be revised in part for the following reasons:

1. There is a need for the allocation of additional frequencies for police, broadcast, and fixed services.

2. The frequency bands, 2000 to 21000 kilocycles and 2750 to 2850 kilocycles, are no longer suitable for visual broadcasting because a satisfactory picture or image in keeping with the present state of the art cannot be transmitted on frequencies within said bands.

3. There is a need for a greater frequency separation from other services in the operation of relay broadcast (formerly broadcast pickup) stations.

It is ordered That Rule 229 be, and it is hereby, amended by striking out so much of said Rule as relates to the frequencies listed below and substituting in lieu thereof the following:

Frequency (kc)	Allocation
1510.....	Broadcast.
1520.....	Do.
1530.....	Do.
1540.....	Do.
1550.....	Do.
1560.....	Do.
1570.....	Do.
1580.....	Government.
1584.....	Do.
1586.....	Do.
1590.....	Broadcast.
1596.....	State Police (temporary).
1600.....	Broadcast.
2000.....	Amateur.
a 2004.....	Government.
2008.....	General Communication.
2012.....	Do.
2016.....	Do.
2020.....	Relay Broadcast.
2024.....	General Communication.
2028.....	Government.
i 2032.....	Police (Intercity Telegraph).
2036.....	Do.
2040.....	Do.
2044.....	General Communication.
2048.....	Government.
a 2052.....	Relay Broadcast.
2056.....	General Communication.
2060.....	Do.
2064.....	Do.
2068.....	Do.
2072.....	Government.
i 2076.....	General Communication.
2080.....	Do.
2084.....	Relay Broadcast.
2088.....	Government.
2092.....	General Communication.
a 2096.....	Do.
2752.....	General Communication.
2756.....	Relay Broadcast.
2760.....	General Communication.
2764.....	Government.
i 2768.....	Fixed.
a h i 2772.....	Do.
2776.....	Do.
2780.....	Do.
2784.....	Relay Broadcast.
2788.....	Government.
a h 2792.....	General Communication.
2796.....	Do.
2800.....	Police (Intercity Telegraph).
2804.....	Do.
2808.....	Do.
2812.....	General Communication.
2816.....	Government.
h i 2820.....	Relay Broadcast.
2824.....	Fixed.
2828.....	Do.
2832.....	Do.
2836.....	Government.
2840.....	Fixed.
i a 2844.....	Police (Intercity Telegraph).
2848.....	Do.
5135.....	Do.
5140.....	Do.
5195.....	Guard band for government assignment 25900 kc.
25600.....	Broadcast.
25625.....	Do.
25650.....	Do.
25675.....	General Experimental.
25700.....	Broadcast.
25725.....	Do.
25750.....	Government.
25770.....	Guard band for government assignment 25770 kc.
25775.....	Broadcast.
25800.....	Do.
25825.....	Do.
25850.....	Do.
25875.....	Do.



Frequency (kc)	Allocation
25800.....	Broadcast.
25925.....	Do.
25950.....	Do.
25975.....	Do.
26000.....	General Experimental.
26025.....	Broadcast.
26050.....	Do.
26075.....	Do.
26100.....	Do.
26125.....	Do.
26150.....	Do.
26175.....	Do.
26190.....	Government.
26200.....	Guard band for government assignment 26190 kc.
26220.....	Government.
26225.....	Guard band for government assignment 26220 kc.
26250.....	Government.
26275.....	Guard band for government assignment 26280 kc.
26280.....	Government.
26300.....	Broadcast.
26325.....	Do.
26350.....	Do.
26375.....	Do.
26400.....	Do.
26425.....	Do.
26450.....	Do.
26475.....	Do.
26500.....	Do.
26525.....	Do.
26550.....	Do.
26575.....	Do.
26600.....	Do.
40300.....	Broadcast Experimental.
41200.....	Do.
41600.....	Do.
41800.....	Do.

All frequencies allocated as General Experimental frequencies are also available for assignment to broadcast service on an experimental basis.

Hereafter in Rule 229 whenever the words "relay broadcast" appear, there will be substituted the words "international broadcast." Whenever the words "broadcast pickup" appear, there will be substituted the words "relay broadcast."

It is further ordered, That said amendment to Rule 229 shall be effective at 3:00 A. M., E. S. T., July 1, 1936.

By the Commission.

[SEAL]

JOHN B. REYNOLDS,  
Acting Secretary.

[Filed, May 23, 1936; 9:47 a. m.]

#### COMMISSION ORDER No. 15

At a general session of the Federal Communications Commission held at its office in Washington, D. C., on the 13th day of May 1936:

The Commission, having under consideration the requirements of Section 303 (f) of the Communications Act of 1934 and having adopted by its Order No. 14 an amendment to its Rule 229 which contemplates a change in the frequency of certain existing stations:

It is ordered That public notice of said order is hereby given to all existing licensees, or pending applicants for instruments of authorization, whose frequency or frequencies heretofore assigned or applied for may be changed by the provisions of said Order, and that opportunity is afforded, prior to July 1, 1936, to indicate in writing to the Commission whether or not such change is consented to by such licensee.

It is further ordered That any licensee or pending applicant not consenting to said change in frequency assignment shall upon application by it be accorded a public hearing to determine whether such change will promote public convenience and interest or will serve public necessity or whether the provisions of the Communications Act of 1934 will be more fully complied with by such changes.

It is further ordered That as to any non-consenting licensee or pending applicant, the effective date of said Order No. 14 shall be postponed until after a determination upon such public hearing.

It is further ordered That as to all licensees or pending applicants who consent prior to July 1, 1936, to the change in frequency resulting from the reallocation made by said Order No. 14, all outstanding licenses or applications for instruments

of authorization be and the same are hereby modified in accordance with said allocation effective at 3:00 A. M., E. S. T., July 1, 1936.

By the Commission.

[SEAL]

JOHN B. REYNOLDS,  
Acting Secretary.

[Filed, May 23, 1936; 9:48 a. m.]

#### RULES AMENDMENT No. 5

##### AMENDMENT TO RULE 106.18 ADOPTED APRIL 29, 1936

The Commission, on April 29, 1936, adopted the following revision of Rule 106.18:

RULE 106.18. Subpenas requiring the attendance and testimony of witnesses, and subpoenas requiring the production of any books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation or hearing may be signed and issued as follows:

(1) Hearings before the Commission en banc:

By any Commissioner.

(2) Hearings before a Division:

By a member of the Division.

(3) Hearings before a Director:

(a) By a member of the Division which authorized the hearing.

(b) When a Director of any Division has been designated to hear testimony in any case such Director may sign and issue subpoenas in that case.

(4) Hearings before an Examiner:

(a) By a member of the Division which authorized the hearing.

(b) When an examiner has been designated to hear a case, he may sign and issue subpoenas in that case.

(c) By the Chief Examiner or the Assistant Chief Examiner.

No subpoena shall be signed or issued in any event without recommendation thereon in advance by the Law Department; *Provided, however*, That if a hearing is held in the field and no representative of the Law Department is in attendance, examination and recommendation by the Law Department in advance shall not be required.

[SEAL]

JOHN B. REYNOLDS,  
Acting Secretary.

[Filed, May 23, 1936; 9:46 a. m.]

##### AMENDMENT TO RULE 419-B, ADOPTED MARCH 30, 1936

The Telegraph Division approved the amendment of Rule 419 B by the addition of the following:

Available for stations located in the Aleutian Islands west of longitude 170° west, type A1, A2, and A3 emission, for communication with government stations in Alaska, provided the maximum power shall not exceed 100 watts and upon the condition that no interference will result to the services of other stations operating in the fixed service:

5207.5 kilocycles unlimited,  
8070 kilocycles day only.

[SEAL]

JOHN B. REYNOLDS,  
Acting Secretary.

[Filed, May 23, 1936; 9:44 a. m.]

#### Telephone Division.

##### ORDER No. 14

Commissioners Walker, Chairman; Brown, and Prall:

At a regular meeting of the Telephone Division of the Federal Communications Commission, held at its offices in Washington, D. C., on the 23rd day of March 1936:

The Telephone Division having under consideration Section 220 (e) of the Communications Act of 1934 and the order issued by the Interstate Commerce Commission on the 3rd day of November 1919, promulgating Regulations to Govern the Destruction of Records of Telephone, Telegraph and Cable Companies (Including Wireless Companies), which said order and regulations have contained in effect pursuant to Section 604 of the Communications Act of 1934; and



The Telephone Division deeming it desirable that no account, record, or memorandum of any telephone company subject to the said order of the Interstate Commerce Commission dated November 3, 1919, shall be destroyed pending the investigation authorized by joint resolution "S. J. Res. 46", 74th Congress, approved March 15, 1935:

*It is ordered,* That all accounts, records, and memoranda listed in paragraph 20 of the Regulations to Govern the Destruction of Records of Telephone, Telegraph, and Cable Companies (Including Wireless Companies) promulgated pursuant to the order of the Interstate Commerce Commission made on the 3rd day of November, 1919, be, and the same shall be, retained until otherwise authorized or ordered by this Commission, in so far as the same shall relate to telephone companies subject to the said order of November 3, 1919.

*It is further ordered,* That this order shall become effective immediately.

By the Commission, Telephone Division.

[SEAL]

HERBERT L. PETTEY, *Secretary.*

[Filed, May 23, 1936; 9:44 a. m.]

#### ORDER NO. 14-A

Commissioners Walker, Chairman; Brown, and Prall.

At a regular meeting of the Telephone Division of the Federal Communications Commission, held at its offices in Washington, D. C., on April 8, 1936;

The Telephone Division having under consideration its Order No. 14 and Subsection 120 of Paragraph 20 of the Regulations to Govern the Destruction of Records of Telephone, Telegraph and Cable Companies (including Wireless Companies) promulgated pursuant to the order of the Interstate Commerce Commission made on the 3rd day of November 1919.

*It is ordered,* That, effective this date, the items listed in said Subsection 120 be, and the same are hereby, exempted from the provisions of said Order No. 14 and may be destroyed in conformity with the provisions of said Regulations to Govern the Destruction of Records.

By the Commission, Telephone Division.

[SEAL]

HERBERT L. PETTEY, *Secretary.*

[Filed, May 23, 1936; 9:46 a. m.]

#### ORDER NO. 14-B

Commissioners Walker, Chairman; Brown, and Prall:

At a regular meeting of the Telephone Division of the Federal Communications Commission held at its offices in Washington, D. C., on May 6, 1936:

The Telephone Division having under consideration its Order No. 14, and subsections 127 and 128 (b) of paragraph 20 of the Regulations to Govern the Destruction of Records of Telephone, Telegraph, and Cable Companies (including Wireless Companies), promulgated pursuant to order of the Interstate Commerce Commission made on the 3rd day of November, 1919;

*It is ordered,* That, effective this date, the duplicate copies of accounts, records, and memoranda set forth in said subsection 127, and the phonograph and other mechanical device records set forth in said subsection 128 (b) be, and the same are hereby, exempted from the provisions of said Order No. 14 and may be destroyed in conformity with the provisions of said Regulations to Govern the Destruction of Records.

By the Commission, Telephone Division.

[SEAL]

JOHN B. REYNOLDS,  
*Acting Secretary.*

[Filed, May 23, 1936; 9:47 a. m.]

#### NOTICE OF INFORMAL ENGINEERING HEARING BEFORE THE COMMISSION EN BANC ON JUNE 15, 1936

Docket No. 3929

Notice is hereby given of an informal engineering hearing before the Commission en banc to be held in the offices of

the Commission at Washington, D. C., beginning at 10 A. M., June 15, 1936, for the purposes of:

(1) Determining the present and future needs of the various classes of services for frequencies above 30,000 kcs. with the view of ultimately allocating such frequencies to service;

(2) Securing for the public and the Commission a keener insight into the conflicting problems which confront the industry and the regulatory body in the application of the new frequencies to the service of the public;

(3) Guiding experimentation along more definite lines as may be justified from the evidence presented at the hearing;

(4) Reviewing present frequency allocations to services in the radio spectrum below 30,000 kc; and

(5) Assisting the Government in its preparation for the International Telecommunications Conference at Cairo in 1938.

At this hearing neither individual applications nor individual assignments within service bands will be considered. However, in determining the width of the frequency band to be assigned to a service in any particular portion of the spectrum, it may be necessary to justify, from an engineering standpoint, the width of the band requested.

Persons appearing before the Commission at this hearing in behalf of a particular service such as maritime, police, aviation, aural broadcasting, or television should be prepared to furnish information as follows:

(a) The dependence of the service on radio rather than wire lines.

(b) The probable number of people who will receive benefits from the service.

(c) The relative social and economic importance of the service, including safety of life and protection of property factors.

(d) The probability of practical establishment of the service and the degree of public support which it is likely to receive.

(e) The degree to which the service should be made available to the public; that is, whether on a limited scale or on an extended competitive scale.

(f) Areas in which services should be provided and, in general, the points to which communication must be maintained.

#### TECHNICAL

(a) The frequency bands required for a given service and the exact position thereof in the radio frequency spectrum; also the width of communication bands or channels within each portion required for station frequency assignments.

(b) Suitability and necessity for particular portions of the spectrum for the service involved. This includes propagation characteristics and reliable range data.

(c) Field intensity required for reliable service.

(d) The number of stations required to enable efficient service to be rendered.

(e) The distance over which communication must be maintained.

(f) The relative amount of radio and other electrical interference likely to be encountered.

(g) The relative amount of noise which may be tolerated in the rendering of service.

#### APPARATUS LIMITATIONS

(a) The upper practical limit of the useful radio frequency spectrum and, in general, what higher limit can be expected in the future.

(b) The operating characteristics of transmitters with respect to external effects and practicability in service for which intended, including frequency tolerance which should be prescribed.

(c) Types of antennas which are available for service for which intended, and their practical limitations, including the best methods of obtaining the most effective use of frequencies.

(d) Receivers available and in process of development, including data with respect to selectivity and practical usefulness for the service for which intended.

Persons who intended to testify at the hearing should prepare exhibits which show the requirements for frequency



bands and positions in the frequency spectrum for the service in which interested. One copy of each exhibit should be furnished the Commission on or before June 1, 1936.

Cross examination of witnesses will be limited to questions by Commissioners or members of the Commission's technical or legal staffs; however, the Chairman may permit any question of any witness which may be submitted to the Chairman in writing.

Persons or organizations desiring to appear and testify will notify the Commission of such intention on or before June 1, 1936. In such notification the number of witnesses who will appear, the topic each will discuss, and the time expected to be occupied by each should be stated. This information is necessary in order more effectively to organize the hearing.

Dated at Washington, D. C., April 22, 1936.

[SEAL]

HERBERT L. PETTEY, *Secretary.*

[Filed, May 23, 1936; 9:46 a. m.]

#### INTERSTATE COMMERCE COMMISSION.

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 21st day of May A. D. 1936.

No. 19200

##### DEPRECIATION CHARGES OF CARRIERS BY PIPE LINES

Good cause appearing therefore:

It is ordered, That the order of November 13, 1934, in this proceeding, as amended December 20, 1935, be, and it is hereby, further amended by changing the latest date upon which operating pipe-line companies shall file with this Commission estimates of composite percentage rates, as provided in paragraph (7) of said order, from July 1, 1936, to September 1, 1936.

By the Commission, division 4.

[SEAL]

GEORGE B. MCGINTY, *Secretary.*

[Filed, May 25, 1936; 11:35 a. m.]

#### SECURITIES AND EXCHANGE COMMISSION.

##### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of May A. D. 1936.

Commissioners: James M. Landis, Chairman; George C. Mathews, Robert E. Healy, J. D. Ross, William O. Douglas.

File No. 36-18

##### IN THE MATTER OF THE APPLICATION OF WALTER BACHRACH, TRUSTEE OF THE COMMONWEALTH LIGHT & POWER COMPANY

##### ORDER AUTHORIZING HEARING AND DESIGNATING OFFICER TO CONDUCT PROCEEDINGS

An application having been duly filed with this Commission, by Walter Bachrach, Trustee of The Commonwealth Light & Power Company, pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935;

It is ordered, that the matter be set down for hearing on June 11, 1936, at ten o'clock in the forenoon of that day, at Room 1103, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

It is further ordered, that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that any interested state, state commission, state securities commission, municipality, or other political subdivision of a state, or any representative of

interested consumers or security holders, or any other person desiring to be admitted as a party in this proceeding or to offer evidence in this matter, shall give notice of such intention to the Commission, such notice to be received by the Commission not later than June 6, 1936.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission. By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[Filed, May 25, 1936; 12:59 p. m.]

##### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of May A. D. 1936.

Commissioners: James M. Landis, Chairman; George C. Mathews, Robert E. Healy, J. D. Ross, William O. Douglas.

File No. 36-19

##### IN THE MATTER OF THE APPLICATION OF LEONARD S. FLORSHEIM, TRUSTEE OF INLAND POWER & LIGHT CORPORATION

##### ORDER AUTHORIZING HEARING AND DESIGNATING OFFICER TO CONDUCT PROCEEDINGS

An application having been duly filed with this Commission, by Leonard S. Florsheim, Trustee of Inland Power & Light Corporation, pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935;

It is ordered, that the matter be set down for hearing on June 11, 1936, at ten o'clock in the forenoon of that day, at Room 1103, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

It is further ordered, that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that any interested state, state commission, state securities commission, municipality, or other political subdivision of a state, or any representative of interested consumers or security holders, or any other person desiring to be admitted as a party in this proceeding or to offer evidence in this matter, shall give notice of such intention to the Commission, such notice to be received by the Commission not later than June 6, 1936.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission. By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[Filed, May 25, 1936; 12:58 p. m.]

##### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 25th day of May, A. D. 1936.

Commissioners: James M. Landis, Chairman; George C. Mathews, Robert E. Healy, J. D. Ross, William O. Douglas.

File 36-20

##### IN THE MATTER OF THE APPLICATION OF THE MIDDLE WEST CORPORATION

##### ORDER AUTHORIZING HEARING AND DESIGNATING OFFICER TO CONDUCT PROCEEDINGS

An application having been duly filed with this Commission, by The Middle West Corporation, pursuant to Section



10 (a) (1) of the Public Utility Holding Company Act of 1935;

It is ordered that the matter be set down for hearing on June 11, 1936, at ten o'clock in the forenoon of that day, at Room 1103, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

It is further ordered, that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that any interested state, state commission, state securities commission, municipality, or other political subdivision of a state, or any representative of interested consumers or security holders, or any other person desiring to be admitted as a party in this proceeding or to offer evidence in this matter, shall give notice of such intention to the Commission, such notice to be received by the Commission not later than June 6, 1936.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[Filed, May 25, 1936; 12:58 p. m.]

#### SECURITIES EXCHANGE ACT OF 1934

Release No. 698

##### RULE ADOPTING FORM 14-K

The Securities and Exchange Commission, finding—

(1) that the requirements of Form 14-K for annual reports relating to certificates of deposit issued by a committee, as more specifically defined in the Instruction Book for Form 14-K, are necessary and appropriate for the proper protection of investors and to insure fair dealing in such securities as are registered on national securities exchanges and as to which Form 14-K is to be used; and,

(2) that the information called for by such Form and the exhibits specified in such Instruction Book are required to keep reasonably current the information and documents filed pursuant to Section 12 of the Securities Exchange Act of 1934,

pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 13 and 23 (a) thereof, hereby adopts Form 14-K and the Instruction Book for Form 14-K.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[Filed, May 25, 1936; 12:58 p. m.]

#### FEDERAL REGISTER ACT

[PUBLIC—No. 220—74TH CONGRESS; 49 STAT. 500-503]

AN ACT To provide for the custody of Federal proclamations, orders, regulations, notices, and other documents, and for the prompt and uniform printing and distribution thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Archivist of the United States, acting through a division established by him in the National Archives Establishment, hereinafter referred to as the "Division", is charged with the custody and, together with the Public Printer, with the prompt and uniform printing and distribution of the documents required or authorized to be published under section 5. There shall be at the head of the Division a director, appointed by the President, who shall act under the general direction of the Archivist of the United States in carrying out the provisions of this Act and the regulations

prescribed hereunder, who shall receive a salary, to be fixed by the President, not to exceed \$5,000 a year.

SEC. 2. The original and two duplicate originals or certified copies of any document required or authorized to be published under section 5 shall be filed with the Division, which shall be open for that purpose during all hours of the working days when the Archives Building shall be open for official business. The Director of the Division shall cause to be noted on the original and duplicate originals or certified copies of each document the day and hour of filing thereof: *Provided*, That when the original is issued, prescribed, or promulgated outside of the District of Columbia and certified copies are filed before the filing of the original, the notation shall be of the day and hour of filing of the certified copies. Upon such filing, at least one copy shall be immediately available for public inspection in the office of the Director of the Division. The original shall be retained in the archives of the National Archives Establishment and shall be available for inspection under regulations to be prescribed by the Archivist. The Division shall transmit immediately to the Government Printing Office for printing, as provided in this Act, one duplicate original or certified copy of each document required or authorized to be published under section 5. Every Federal agency shall cause to be transmitted for filing as herein required the original and the duplicate originals or certified copies of all such documents issued, prescribed, or promulgated by the agency.

SEC. 3. All documents required or authorized to be published under section 5 shall be printed and distributed forthwith by the Government Printing Office in a serial publication designated the "Federal Register." It shall be the duty of the Public Printer to make available the facilities of the Government Printing Office for the prompt printing and distribution of the Federal Register in the manner and at the times required in accordance with the provisions of this Act and the regulations prescribed hereunder. The contents of the daily issues shall be indexed and shall comprise all documents, required or authorized to be published, filed with the Division up to such time of the day immediately preceding the day of distribution as shall be fixed by regulations hereunder. There shall be printed with each document a copy of the notation, required to be made under section 2, of the day and hour when, upon filing with the Division, such document was made available for public inspection. Distribution shall be made by delivery or by deposit at a post office at such time in the morning of the day of distribution as shall be fixed by such regulations prescribed hereunder. The prices to be charged for the Federal Register may be fixed by the administrative committee established by section 6 without reference to the restrictions placed upon and fixed for the sale of Government publications by section 1 of the Act of May 11, 1922, and section 307 of the Act of June 30, 1932 (U. S. C., title 44, secs. 72 and 72a), and any amendments thereto.

SEC. 4. As used in this Act, unless the context otherwise requires, the term "document" means any Presidential proclamation or Executive order and any order, regulation, rule, certificate, code of fair competition, license, notice, or similar instrument issued, prescribed, or promulgated by a Federal agency; the terms "Federal agency" or "agency" mean the President of the United States, or any executive department, independent board, establishment, bureau, agency, institution, commission, or separate office of the administrative branch of the Government of the United States but not the legislative or judicial branches of the Government; and the term "person" means any individual, partnership, association, or corporation.

SEC. 5. (a) There shall be published in the Federal Register (1) all Presidential proclamations and Executive orders, except such as have no general applicability and legal effect or are effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof; (2) such documents or classes of documents as the President shall determine from time to time have general applicability and legal effect; and (3) such documents or classes of docu-



ments as may be required so to be published by Act of the Congress: *Provided*, That for the purposes of this Act every document or order which shall prescribe a penalty shall be deemed to have general applicability and legal effect.

(b) In addition to the foregoing there shall also be published in the Federal Register such other documents or classes of documents as may be authorized to be published pursuant hereto by regulations prescribed hereunder with the approval of the President, but in no case shall comments or news items of any character whatsoever be authorized to be published in the Federal Register.

SEC. 6. There is established a permanent Administrative Committee of three members consisting of the Archivist or Acting Archivist, who shall be chairman, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer. The Director of the Division shall act as secretary of the committee. The committee shall prescribe, with the approval of the President, regulations for carrying out the provisions of this Act. Such regulations shall provide, among other things: (a) The manner of certification of copies required to be certified under section 2, which certification may be permitted to be based upon confirmed communications from outside of the District of Columbia; (b) the documents which shall be authorized pursuant to section 5 (b) to be published in the Federal Register; (c) the manner and form in which the Federal Register shall be printed, reprinted, compiled, indexed, bound, and distributed; (d) the number of copies of the Federal Register which shall be printed, reprinted, and compiled, the number which shall be distributed without charge to Members of Congress, officers and employees of the United States, or any Federal agency for their official use, and the number which shall be available for distribution to the public; and (e) the prices to be charged for individual copies of, and subscriptions to, the Federal Register and reprints and bound volumes thereof.

SEC. 7. No document required under section 5 (a) to be published in the Federal Register shall be valid as against any person who has not had actual knowledge thereof until the duplicate originals or certified copies of the document shall have been filed with the Division and a copy made available for public inspection as provided in section 2; and, unless otherwise specifically provided by statute, such filing of any document, required or authorized to be published under section 5, shall, except in cases where notice by publication is insufficient in law, be sufficient to give notice of the contents of such document to any person subject thereto or affected thereby. The publication in the Federal Register of any document shall create a rebuttable presumption (a) that it was duly issued, prescribed, or promulgated; (b) that it was duly filed with the Division and made available for public inspection at the day and hour stated in the printed notation; (c) that the copy contained in the Federal Register is a true copy of the original; and, (d) that all requirements of this Act and the regulations prescribed hereunder relative to such document have been complied with. The contents of the Federal Register shall be judicially noticed and, without prejudice to any other mode of citation, may be cited by volume and page number.

SEC. 8. Whenever notice of hearing or of opportunity to be heard is required or authorized to be given by or under an Act of the Congress, or may otherwise properly be given, the notice shall be deemed to have been duly given to all persons residing within the continental United States (not including Alaska), except in cases where notice by publication is insufficient in law, if said notice shall be published in the Federal Register at such time that the period between the publication and the date fixed in such notice for the hearing or for the

termination of the opportunity to be heard shall be (a) not less than the time specifically prescribed for the publication of the notice by the appropriate Act of the Congress; or (b) not less than fifteen days when no time for publication is specifically prescribed by the Act, without prejudice, however, to the effectiveness of any notice of less than fifteen days where such shorter period is reasonable.

SEC. 9. Every payment made for the Federal Register shall be covered into the Treasury as a miscellaneous receipt. The cost of printing, reprinting, wrapping, binding, and distributing the Federal Register and any other expenses incurred by the Government Printing Office in carrying out the duties placed upon it by this Act shall be borne by the appropriations to the Government Printing Office and such appropriations are hereby made available, and are authorized to be increased by such additional sums as are necessary for such purposes, such increases to be based upon estimates submitted by the Public Printer. The purposes for which appropriations are available and are authorized to be made under section 10 of the Act entitled "An Act to establish a National Archives of the United States Government, and for other purposes" (48 Stat. 1122) are enlarged to cover the additional duties placed upon the National Archives Establishment by the provisions of this Act. Copies of the Federal Register mailed by the Government shall be entitled to the free use of the United States mails in the same manner as the official mail of the executive departments of the Government. The cost of mailing the Federal Register to officers and employees of Federal agencies in foreign countries shall be borne by the respective agencies.

SEC. 10. The provisions of section 2 shall become effective sixty days after the date of approval of this Act and the publication of the Federal Register shall begin within three business days thereafter: *Provided*, That the appropriations involved have been increased as required by section 9 of this Act. The limitations upon the effectiveness of documents required, under section 5 (a), to be published in the Federal Register shall not be operative as to any document issued, prescribed, or promulgated prior to the date when such document is first required by this or subsequent Act of the Congress or by Executive order to be published in the Federal Register.

SEC. 11. Within six months after the approval of this Act each agency shall prepare and file with the committee a complete compilation of all documents which have been issued or promulgated prior to the date documents are required or authorized by this Act to be published in the Federal Register and which are still in force and effect and relied upon by the agency as authority for, or invoked or used by it in the discharge of, any of its functions or activities. The committee shall within sixty days thereafter report with respect thereto to the President, who shall determine which of such documents have general applicability and legal effect, and shall authorize the publication thereof in a special or supplemental edition or issue of the Federal Register. Such special or supplemental editions or issues shall be distributed in the same manner as regular editions or issues, and shall be included in the bound volumes of the Federal Register as supplements thereto.

SEC. 12. Nothing in this Act shall be construed to apply to treaties, conventions, protocols, and other international agreements, or proclamations thereof by the President.

SEC. 13. All Acts or parts of Acts in conflict with this Act are hereby repealed insofar as they conflict herewith.

SEC. 14. This Act may be cited as the "Federal Register Act."

Approved, July 26, 1935.